

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matters of)

Preserving the Open Internet) GN Docket No. 09-191; WC Docket No. 07-52;
FCC 09-93

Broadband Industry Practices)

COMMENTS OF MLB ADVANCED MEDIA, L.P.

The undersigned organization respectfully submits these comments in response to the November 30, 2009 Notice of Proposed Rulemaking (the “NPRM”) from the Federal Communications Commission (the “Commission”) in adopting rules to preserve the open Internet.

Background

MLB Advanced Media, L.P. (“MLBAM”) is Major League Baseball’s Internet and interactive media company, with exclusive rights to distribute Major League Baseball (“MLB”) game telecasts and radio broadcasts via the Internet. In MLBAM’s exercise of these rights from MLB.com, the Official Site of Major League Baseball, in 2009 end users watched or listened to six billion minutes of live and on-demand multimedia.

MLB.com’s first live game webcast occurred in 2002, an innovation to better serve our fans in the pioneering tradition of the first radio broadcast of an MLB game in 1921 and the first television broadcast of one in 1939. Today, MLB.TV is the world’s most successful and comprehensive live video service on the Internet, distributing thousands of games each season to a global audience of baseball fans on personal computers and iPhones. MLB.TV illustrates how broadband networks can be utilized in ways that benefit broadband Internet service providers, consumers and copyright holders alike.

Comments

With this statement of introduction, we wish to express the following comments in response to the NPRM:

I. MLBAM commends the Commission for stating that its open Internet principles do not apply to unlawful transfers of content, including copyright infringing activities.

MLBAM commends the Commission for stating that its open Internet principles do not apply to unlawful transfers of content, including copyright infringing activities. As the Commission states in Paragraph 92:

“Moreover, it is important to emphasize that open Internet principles apply only to lawful transfers of content. They do not, for example, apply to activities such as the unlawful distribution of copyrighted works, which has adverse consequences on the economy and the overall broadband ecosystem. In order for network openness obligations and appropriate enforcement of copyright laws to co-exist, it appears reasonable for a broadband Internet service provider to refuse to transmit copyrighted material if the transfer of that material would violate applicable laws. Such a rule would be consistent with the Comcast Network Management Practices Order, in which the Commission stated that “providers, consistent with federal policy, may block . . . transmissions that violate copyright law.”

It is essential that the Commission’s open Internet principles and rules treat copyright infringing activities as outliers. As Commissioner Genachowski stated, the Commission’s principles and rules must not be a “shield” for “copyright infringement, spam or other violations of the law.” (Notice, Statement of Commissioner Genachowski.)

II. In order for the Commission to achieve the goals stated in the NPRM, it should set a guiding policy, consistent with its jurisdiction, to stop copyright infringing activities occurring via U.S. broadband Internet services.

However, MLBAM believes that in order for the Commission to achieve the goals stated in the NPRM, it must do more than treat copyright infringing activities as outliers. At a moment when the Commission is seeking historic and sweeping changes to Internet regulation, it should set a guiding policy, consistent with its jurisdiction, to stop copyright infringing activities occurring via U.S. broadband Internet services.

After setting this policy, the Commission’s first step forward should be to develop a national plan to implement it. This will necessarily involve participation of interested parties, including broadband Internet service providers, consumers, and content rights holders and distributors. The Commission should carry out this initiative with all due speed because the Internet content piracy business is growing at an alarming rate, undermining the open Internet and threatening the U.S. economy.

Respectfully submitted,

MLB Advanced Media, L.P.

By:

A handwritten signature in black ink, appearing to read "Michael Mellis", followed by a horizontal line. To the right of the signature, the letters "HPS" are handwritten.

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January 14, 2010